UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Lacks Enterprises, Inc. Kentwood, Michigan	)	**FINDING OF VIOLATION**
	)	
	)	**EPA-5-00-MI-11**
	)	
Proceedings Pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 et seq.	)	
	)	
	)	
	)	

Finding of Violation

The United States Environmental Protection Agency (EPA) hereby notifies the State of Michigan and Lacks Enterprises, Inc. (Lacks) that EPA finds that Lacks, located at 5460 Cascade Road, SE, Grand Rapids, Michigan, is in violation of the Clean Air Act (Act), 42 U.S.C. §§ 7401 et seq., at Lacks' facility located in Kentwood, Michigan. Specifically, Lacks is in violation of Sections 112 and 503 of the Act, 42 U.S.C. §§ 7412 and 7503, the National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63, Subpart N (Chrome Plating NESHAP), and provisions under State Operating Permit Programs, 40 C.F.R. Part 70 (Part 70), as follows:

Regulatory Authority

1. The Chrome Plating NESHAP applies to each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing.

2. At 40 C.F.R. § 63.343(a)(i), the Chrome Plating NESHAP establishes January 25, 1996 as the compliance date for decorative chromium electroplating tanks.

3. At 40 C.F.R. § 63.342(d)(1), the Chrome Plating NESHAP limits the concentration of total chromium in the exhaust gas stream from decorative chrome plating tanks to 0.01 milligram per dry standard cubic meter (mg/dscm).

4. At 40 C.F.R. § 63.342(d)(2), the Chrome Plating NESHAP provides that if a wetting agent is used as a compliance method

in a decorative plating tank, the surface tension of the electroplating bath cannot exceed 45 dynes per centimeter (dynes/cm), at any time during tank operation.

5. At 40 C.F.R. § 63.343(c)(5)(ii)(C), the Chrome Plating NESHAP provides that if surface tension monitoring is used to determine the compliance status of a decorative plating tank and an exceedance of the regulated surface tension limit occurs, then the surface tension monitoring schedule must resume a frequency of once every 4 hours.

6. Major sources, as defined by Part 70 at 40 C.F.R. § 70.2, include sources which have a potential to emit at least 10 tons per year of a single hazardous air pollutant.

7. Under 40 C.F.R. § 63.347(g)(3), the owner or operator of an affected source, which is required to conduct compliance monitoring, must prepare an ongoing compliance status report.

8. Under 40 C.F.R. § 63.347(g)(3), an ongoing compliance status report must contain certain information, which includes:

> (i) An identification of the operating parameter that is monitored for compliance determination, as required by § 63.343(c);
> (ii) The relevant emission limitation for the affected source, and the operating parameter value, or range of values, that correspond to compliance with this emission limitation as specified in the notification of compliance status required by paragraph (e) of this section;
> (iii) A description of the type of process performed in the affected source;
> (iv) The total operating time of the affected source during the reporting period;
> (v) A summary of operating parameter values, including the total duration of excess emissions during the reporting period as indicated by those values, the total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total duration of excess emissions during the reporting period into those that are due to process upsets, control equipment malfunctions, other known causes, and unknown causes;
> (vi) A certification by a responsible official, as defined in § 63.2, that the work practice standards in § 63.342(f) were followed in accordance with the operation and maintenance plan for the source;

(vii) If the operation and maintenance plan required by § 63.342(f)(3) was not followed, an explanation of the reasons for not following the provisions, an assessment of whether any excess emission and/or parameter monitoring exceedances are believed to have occurred, and a copy of the report(s) required by § 63.342(f)(3)(iv) documenting that the operation and maintenance plan was not followed;
(viii) A description of any changes in monitoring, processes, or controls since the last reporting period; and
(ix) The name, title, and signature of the responsible official who is certifying the accuracy of the report.

9. At 40 C.F.R. § 70.3(a), Part 70 provides that sources subject to Part 70 (Part 70 sources) include major sources.

10. Part 70, at 40 C.F.R. § 70.5(a), requires Part 70 sources to apply for a permit (Part 70 permit) within 12 months after the source becomes subject to the permit program or on or before such earlier date as the permitting authority may establish.

11. The Michigan Department of Environmental Quality (MDEQ), the permitting authority for the State of Michigan, requires, under Michigan Rule R336.1210(4)(c), that Part 70 sources with Standard Industrial Classification (SIC) codes of 3400 to 3599, apply for a Part 70 permit by July 30, 1996.

Factual Background

12. Lacks owns and operates a decorative chrome plating facility located in Kentwood, Michigan (the facility).

13. The facility is subject to the Chrome Plating NESHAP codified at 40 C.F.R. Part 63, Subpart N.

14. Lacks owns and operates two decorative chrome plating processes at the facility.

15. One decorative chrome plating process at the facility is called the South Chrome Plating Process.

16. The South Chrome Plating Process includes decorative chrome plating tanks formerly identified as Tanks #37, #38, and #39.

17. Tanks #37, #38, and #39 have been re-identified as

Tanks #41, #42, and #43, respectively.

18. One decorative chrome plating process at the facility is called the North Chrome Plating Process.

19. The North Chrome Plating Process includes decorative chrome plating tanks identified as Tanks #44 and #45.

20. Lacks owns and operates a process at the facility, called the South Airlane Electroless Copper Process (South Copper Process).

21. According to a November 19, 1998 air use permit application submitted by Lacks for the facility, the South Copper Process has a methanol emission rate of 4.56 pounds per hour (lbs/hr).

22. The 4.56 lbs/hr methanol emission rate for the South Copper Process is equivalent to a potential to emit of 20 tons per year (tpy).

23. Methanol is a hazardous air pollutant as defined by Section 112 of the Act, 42 U.S.C. § 7412.

24. Since the facility has a potential to emit greater than 10 tpy of methanol, a hazardous air pollutant (as evidenced by the South Copper Process), then the facility is a major source as defined by 40 C.F.R. § 70.2.

25. Since the facility is a major source, it is also a Part 70 source under 40 C.F.R. § 70.2.

26. The facility has a SIC code of 3471.

Violations

27. In a response to a Request for Information under Section 114 of the Act, 42 U.S.C. § 7414, Lacks submitted the following information to EPA: (1) results from a stack test conducted at the North Chrome Plating Process on November 20, 1998, and (2) surface tension data for the facility's chrome plating baths, including the decorative plating tanks in the North and South Chrome Plating Processes, for operations dating from June 22, 1996 to May 5, 1998.

28. Lacks submitted the following information to MDEQ: (1) surface tension data for the facility's chrome plating baths, including the decorative plating tanks in the North and South

Chrome Plating Processes, for operations dating from January 1, 1999 to June 30, 1999, and (2) a November 19, 1988 Air Use Permit Application for the facility.

29. The results from the November 20, 1998 stack test conducted at the North Chrome Plating Process demonstrate that the chromium concentration of the exhaust gas stream is 0.016 mg/dscm.

30. Since the chromium concentration of the exhaust gas stream of the North Chrome Plating Process exceeds the regulatory value of 0.01 mg/dscm, Lacks is in violation of 40 C.F.R. § 63.342(d)(1).

31. Based on information submitted by Lacks to EPA and MDEQ, the following surface tension data for the facility's chrome plating baths show violations of: (1) the 45 dyne/cm limit for surface tension set forth in 40 C.F.R. § 63.342(d)(2), and (2) the 4 hour period surface tension measurement requirements following an exceedance as set forth in 40 C.F.R. § 63.343(c)(5)(ii)(C):

SOUTH CHROME PLATING PROCESS				
Tank Number	**Surface Tension of Plating Bath (dynes/cm)**	Date/Time when surface tension monitored	Subsequent dates/times when surface tension monitored	**Elapsed time since previous surface tension measurement**
37	**50**	10/27/96 10:00pm	10/28/96 12:00am	
			10/28/96 6:00am	**6 hours**
	48	12/8/96 8:45pm	12/9/96 12:00am	
			12/9/96 6:00am	**6 hours**
38	**51**	10/27/96 10:00pm	10/28/96 12:00am	
			10/28/96 6:00am	**6 hours**
	50	10/31/96 10:00pm	11/1/96 6:00am	**8 hours**
39	**47**	6/9/96 10:00pm	6/10/96 2:00am	
			6/10/96 6:00am	
			6/10/96 2:00pm	**8 hours**
	61	10/27/96 10:00pm	10/28/96 12:00am	
			10/28/96 6:00am	**6 hours**
	51	10/31/96 10:00pm	11/1/96 6:00am	**8 hours**
41	**46**	3/3/98 6:15pm	3/4/98 2:00pm	**7 hours, 45 minutes**
	47	4/17/98 2:00am	4/17/98 10:00pm	**6 hours**

NORTH CHROME PLATING PROCESS				
44	60	1/27/99 11:30pm	1/28/99 3:00am	
			1/28/99 6:00am	
			1/28/99 12:00pm	**6 hours**
45	50	11/15/98 2:00pm	11/15/98 10:00pm	**8 hours**
	51	1/27/99 11:30pm	1/28/99 3:00am	
			1/28/99 6:00am	
			1/28/99 12:00pm	**6 hours**

32. Since Lacks' chrome plating baths exceeded the 45 dyne/cm limit on the dates shown above, then Lacks is in violation of 40 C.F.R. § 63.342(d)(2).

33. Since Lacks' surface tension monitoring schedule did not resume a frequency of once every 4 hours for a period of 40 hours, subsequent to the exceedances shown above, Lacks is in violation of 40 C.F.R. § 63.343(c)(5)(ii)(C).

34. On November 24, 1997, Lacks submitted an ongoing compliance status report for its affected sources to MDEQ.

35. The ongoing compliance status report submitted to MDEQ lacked the following information, part of which is identified in 40 C.F.R. § 63.347(g)(3):

> (i) An identification of the operating parameter that is monitored for compliance determination, as required by § 63.343(c);
> (ii) The relevant emission limitation for the affected source, and the operating parameter value, or range of values, that correspond to compliance with this emission limitation as specified in the notification of compliance status required by paragraph (e) of this section;
> (iii) A description of the type of process performed in

the affected source;
(iv) The total operating time of the affected source during the reporting period;
(v) A summary of operating parameter values, including the total duration of excess emissions during the reporting period as indicated by those values, the total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total duration of excess emissions during the reporting period into those that are due to process upsets, control equipment malfunctions, other known causes, and unknown causes;
(vi) A certification by a responsible official, as defined in § 63.2, that the work practice standards in § 63.342(f) were followed in accordance with the operation and maintenance plan for the source;
(vii) If the operation and maintenance plan required by § 63.342(f)(3) was not followed, an explanation of the reasons for not following the provisions, an assessment of whether any excess emission and/or parameter monitoring exceedances are believed to have occurred, and a copy of the report(s) required by § 63.342(f)(3)(iv) documenting that the operation and maintenance plan was not followed;
(viii) A description of any changes in monitoring, processes, or controls since the last reporting period; and
(ix) The name, title, and signature of the responsible official who is certifying the accuracy of the report.

36. Since the ongoing compliance status report lacked part of the information identified in 40 C.F.R. § 63.347(g)(3), then Lacks is in violation of 40 C.F.R. § 63.347(g)(1) and (3).

37. Lacks submitted an application for a Part 70 permit to MDEQ on August 31, 1999.

38. Since Lacks submitted an application for a Part 70 permit to MDEQ after the July 30, 1996 deadline, Lacks is in violation of 40 C.F.R. § 70.5(a).

3-28-00

Date

Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation by Certified Mail, Return Receipt Requested, to:

Richard Lacks, Sr., President
Lacks Enterprises, Inc.
5460 Cascade Road, SE
Grand Rapids, Michigan 49546

I also certify that I sent copies of the Finding of Violation by first class mail to:

Barbara Rosenbaum, Supervisor
Compliance and Enforcement Section
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909-7760

Heidi Hollenbach, Supervisor
Grand Rapids District
Air Quality Division
Michigan Department of Environmental Quality
State Office Building, 6th Floor
350 Ottawa NW
Grand Rapids, Michigan 49503

on the 29 day of March, 2000.

Shanee Rucker

Shanee Rucker, Secretary
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: Z 199026497